

FILED

APR 13 2017

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

Clerk, U.S. District Court
District Of Montana
Great Falls

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SEAN MICHAEL GRUMBEIN,

Defendant.

CR 05-91-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on April 10, 2017. Defendant admitted that he had violated the conditions of his supervised release by failing to report for substance abuse testing on multiple occasions, by committing another crime, and by using marijuana. Judge Johnston found the admissions sufficient to establish the supervised release violations. Judge Johnston recommended that this Court revoke Defendant's supervised release and sentence him to time served, with no supervised release to follow.


The parties informed Judge Johnston that they have no objections to the sentence. Defendant has waived his right to file objections. Judge Johnston's findings and recommendations are therefore reviewed for clear

error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted that he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 60 months, followed by 60 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of seven to 13 months. A sentence of time served, with no supervised release to follow is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 43) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 13th day of April, 2017.

A handwritten signature in black ink, reading "Brian Morris". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Brian Morris
United States District Court Judge